UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:06-cv-00400-BR

SUELLEN E. BEAULIEU, et al, **Plaintiffs** **v.** **EQ INDUSTRIAL SERVICES, INC., et al,** **Defendants.**	**JOINT MOTION FOR PRELIMINARY APPROVAL OF CLASS SETTLEMENT AND FOR CERTIFICATION OF SETTLEMENT CLASSES AND RELATED MATTERS** **This Document Relates To: ALL CASES**

Plaintiffs, Suellen E. Beaulieu Michael Borden, Betsy Borden, Lisa Carley, Josephine Cross, Clifford Randy Wilder, Tara Wilder, Anne M. Acosta, George Acosta, Denise Hatzidakis, Hatzidakis, LLC d/b/a Xios Restaurant each on their own behalf, and on behalf of all others similarly situated, and defendants EQ Holding Company and EQ Industrial Services Inc. (collectively referred to as EQIS), defendants Allworth, LLC f/k/a Allworth, Inc. (hereinafter referred to as "Allworth") and ST Mobile Aerospace Engineering, Inc. (hereinafter referred to as "MAE") hereby jointly move, pursuant to Rules 23(a), 23(b)(3), 23(C)(5), and 23(e) of the Federal Rules of Civil Procedure:

1. For an order certifying the following class only for the purposes of settlement with defendants effective through the Final Order and Judgment, when defendants are finally dismissed with prejudice from this Litigation:

All natural persons, whether minor or adult, and Businesses including those falling within one or more of the following sub-classes, including any person or entity claiming by, through or under a Class Member (as defined in the PSA), who seek compensation for damages or losses related to the Incident other than personal injuries but excluding those persons or Businesses who would otherwise be Class Members, but who or which are: (i) EQIS, Allworth, MAE, Released Entities, or any of their employees, agents, Insurers, contractors, and subcontractors, including employees of EQIS', Allworth's, and MAE's agents, contractors or subcontractors, (ii) the Court and Court personnel and their immediate families, (iii) the attorneys who have made appearances for any of the Parties; and (iv) Opt Outs from the class.

Subclass 1– Recommended Evacuation Subclass:
All natural persons, including minors and adults, who, on October 5, 2006 resided within the geographic boundaries of the area of the Recommended Evacuation Zone (as defined in the PSA) and who evacuated in response to the Incident.

Subclass 2 – Secondary Evacuation Subclass:
All natural persons, including minors and adults, who, on October 5, 2006 resided outside the geographic boundaries of the Recommended Evacuation Zone, but within the geographical boundaries of the Secondary Evacuation Zone (as defined in the PSA), and who evacuated in response to the Incident.

Subclass 3 – Business Loss Subclass
All Businesses that were physically located within or geographically contiguous to the Recommended Evacuation Zone (as defined in the PSA) on October 5, 2006 that were forced to cease business operations in response to the Incident and sustained provable economic losses as a result of the Incident.

2. For an order, pursuant to Rule 23(a)(4) appointing Suellen E. Beaulieu, Michael Borden, Betsy Borden, Lisa Carley, Josephine Cross, Clifford Randy Wilder, Tara Wilder, Anne M. Acosta, George Acosta, and Denise Hatzidakis, individually and on behalf of Hatzidakis, LLC d/b/a Xios Restaurant, as Class Representatives to represent the settlement classes;

3. For an order, pursuant to Rule 23(g), appointing Henry T. Dart, Donald J. Dunn, M. David Karnas, J. Michael Malone, Roger W. Orlando, Jesse

S.Shapiro and Robert E. Zaytoun as Class Counsel to represent the settlement class;

4. For an Order, pursuant to Rule 23(e), preliminarily approving the settlement of the proposed class as set forth in the Preliminary Settlement Agreement (PSA), attached as Exhibit 1;
5. For an Order, pursuant to Rules 23 (c)(2)(B) and 23(e), approving the form and method of Notice provided in the PSA, and that dissemination of the Notice as set forth in the PSA be approved and ordered to be carried out;
6. For an Order, pursuant to Rule 23(d)(1)(E), appointing James L. Griggs of Litigation Settlement Services as Settlement Administrator to disseminate notice as set forth in the PSA, to receive and process Proof of Claim Forms and opt-outs pursuant to the terms of the PSA and the Proof of Claims Processing Protocol, and to carry out all other functions of the Settlement Administrator as set forth in the PSA;
7. For an Order, pursuant to Rule 23(d)(1)(E), appointing Daniel T. Barker, Esq. as Guardian ad Litem to represent the Class Members who are minors or who lack capacity, and make an independent investigation, on behalf of Class Members who are minors or who lack capacity, into the terms and provisions of this PSA, and thereafter make a recommendation to the Court at the Final Fairness Hearing as to the fairness of this PSA with respect to Class Members who are minors or who lack capacity prior to the entry of the final order and Judgment;

8. For an Order, pursuant to Rule 23(d), approving Defendants plan for providing disclosures of the proposed Settlement to designated governmental entities as set forth in Section 6.4 of the PSA;
9. For an Order, pursuant to Rule 23(c)(2), that any members of the conditionally certified Settlement Class who elect to opt out of the Settlement Class must do so no later than thirty (30) days after the date of publication of the Notice by following the procedures set forth in the Notice and Paragraph 6.2.1 of the PSA;
10. For an Order, pursuant to Rule 23(e)(5), that any members of the conditionally certified Settlement Class who elect to object to the fairness of the Settlement or to Court approval of the payment of Approved Claims, Settlement Costs, attorney fees, Litigation Expenses, Class Representative Participation Awards, Cy Pres funds, and potential reversions to EQIS'S Insurer, Allworth and MAE must do so no later than thirty (30) days after the date of publication of the Notice by following the procedures set forth in the Notice and Paragraph 6.2.2 of the PSA;
11. For an Order, pursuant to Rule 23(e)(2), that a Final Fairness Hearing be held to consider final approval of the proposed Settlement, including Court approval of the payment of Approved Claims, Settlement Costs, attorney fees, Litigation Expenses, Class Representative Participation Awards, Cy Pres funds, and potential reversions to EQIS' Insurer, Allworth and MAE commencing at a date and time to be set by the Court and published in the Notice; and

12. The Parties respectfully request that, immediately upon entry of the order of preliminary approval, the Court convene a telephone status conference with all counsel to discuss scheduling a date for the Final Fairness Hearing.

This Motion is supported by the attached Plaintiffs' Memorandum in Support of Joint Motion for Preliminary Approval of Class Settlement and for Certification of Settlement Classes and Related Matters, and the exhibits thereto.

Respectfully submitted,

Plaintiffs' Management Committee

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CERTIFICATE OF SERVICE

This is to certify that the undersigned has this date served the foregoing **JOINT MOTION FOR PRELIMINARY APPROVAL OF CLASS**

SETTLEMENT AND FOR CERTIFICATION OF SETTLEMENT CLASSES AND RELATED MATTERS on the Court's electronic docketing system. By previous Case Management Order, Liaison Counsel are authorized and designated to receive filing electronically from the Court on behalf of all defendants. Therefore, the undersigned upon information and belief certifies that all counsel of record as noted below, will receive a copy of these papers through the Court's electronic notice system:

This, the 23rd day of March, 2009.

ADDRESSED TO:

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